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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/830,096	11/06/2002	Eric Colin	60,130-1064	2869

26096 7590 12/12/2003  
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EXAMINER

VAN PELT, BRADLEY J

ART UNIT PAPER NUMBER

3682

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application N 09/830,096	Applicant(s) COLIN, ERIC	
Examiner Bradley J Van Pelt	Art Unit 3682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on \_\_\_\_\_.
- 2a)  This action is FINAL.                      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 1-18 and 20 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) 20 is/are allowed.
- 6)  Claim(s) 1-4, 7-18 is/are rejected.
- 7)  Claim(s) 5 and 6 is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 22 September 2003 is/are: a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All   b)  Some \*   c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a)  The translation of the foreign language provisional application has been received.
- 14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other:

## DETAILED ACTION

### *Drawings*

Substitute drawings were received on September 22, 2003. These drawings have not been approved, because they contain new matter.

### *Specification*

1. The amendment filed September 22, 2003 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: the new description of the housing is new matter, because it includes further detail of the housing.

Applicant is required to cancel the new matter in the reply to this Office Action.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 9-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The structure of the housing is unclear.

*Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-4, 7, 8, 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohkawa et al. (USPN 5,009,296), herein after Ohkawa.

Ohkawa disclose an actuator assembly including a motor (140) having a body portion (120) and a drive shaft (141), and a pinion (151) directly fixed to the drive shaft to always rotate in unison with the drive shaft, the pinion drivingly engaging an array of gear teeth of a gear rack (115) the array of gear teeth having a first side adjacent the motor, in which the gear rack is pivotally mounted via a pivot (114) about a pivot axis wherein said pivot axis is on a motor side of said array of gear teeth;

the pivot axis passes through the body portion (120);

the pivot axis is proximate an end of the motor remote from the pinion;

the gear rack includes at least one stop (straight plates 17, act as stops) to limit movement of the rack relative to the body portion;

the drive shaft passes between the array of gear teeth and a guide portion (structure plates 112, 113) proximate the gear teeth;

the guide portion is supported by each stop;

the pivot is mounted on the body portion;

an actuator assembly including a motor (140) having a body portion (120) and a drive shaft (141), the drive shaft being drivably connected to a pinion (151), the pinion drivingly engaging an array of gear teeth of a gear rack (115) with the gear rack being mounted for movement on the body portion (rack moves relative to body portion 120);

the motor is an electric motor (see column 1, lines 24-30).

***Allowable Subject Matter***

6. Claims 5 and 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claim 20 is allowed.

***Response to Arguments***

8. Applicant's arguments filed September 22, 2003 have been fully considered but they are not persuasive. The applicant argues that the Ohkawa et al. reference does not anticipate the functional limitation "a pinion is directly fixed to the drive shaft to *always* rotate in unison with the drive shaft." The applicant sets forth Ohkawa et al. discloses a mechanical clutch (150), therefore, the pinion (151) will not always rotate with the motor shaft (141). Generally, a reference anticipates functional language, if the reference can perform the particular function. Here, the clutch (150) in between the pinion (151) and the motor shaft (141) could always be engaged, and therefore, the reference anticipates this limitation.

***Conclusion***

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9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

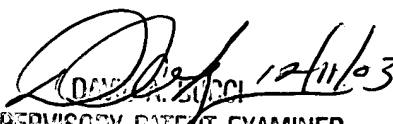
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley J Van Pelt whose telephone number is 703.305.8176. The examiner can normally be reached on M-Th 7:00-4:30, 2nd F 7:00-3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.2168.

BJVP 

  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600